

REMARKS/ARGUMENTS

Reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above amendments and remarks that follow.

Claims 1, 3-10, 12-17, 19-26, and 28-36 are pending in the application. Independent claims 1 and 17 have been amended to incorporate certain subject matter originally found in claims 2 and 18, which have now been cancelled. In particular, claims 1 and 17 now recite that the rod has a cylindrical shape and a longitudinally extending outer surface, the wrapping material providing the outer surface, and wherein the lighting end is open to expose the smokable material such that the smokable material is positioned for lighting at the lighting end of the smokable rod. Support for this amendment may be found throughout the specification and in the original claims, such as original claim 2, all of the figures of the application, and pages 7-9 and 14-15, wherein lighting of the lighting end of the cigarette and burning of smokable materials therein is discussed. Claims 3-8, 12-16, 19-24, and 28-32 have been amended to correct dependency in light of cancellation of claims 2 and 18. Additionally, claims 11 and 27 have been cancelled without prejudice or disclaimer. Finally, new claims 33-36 are presented herein. New independent claim 33 is similar in subject matter to the other independent claims, except it recites a cigarette comprising a smokable rod and a filter, and recites that the smokable material of the rod comprises a reconstituted tobacco material and an aerosol forming material. As with the other independent claims, claim 33 recites that the lighting end is open to expose the smokable material such that the smokable material is positioned for lighting at the lighting end of the smokable rod. New claims 35 and 36 recite that the aerosol forming material is placed in intimate contact with a reconstituted tobacco material during a cast sheet or paper-type process by replacing a portion of the solvent soluble portion of the tobacco material with the aerosol forming material. Support for these additional claims can be found throughout the specification, and particularly, on pages 32-36. Applicants respectfully submit that no new matter is introduced by these amendments.

Claims 1-8, 15-26, and 31-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,892,109 to Strubel. The Examiner relies upon the Strubel

reference as disclosing a smoking article including a sleeve 12 circumscribing a porous material 36, which can comprise tobacco and an aerosol generating material. Applicants respectfully traverse this rejection.

As noted above, preferred aspects of the present invention have been clarified by amending independent claims 1 and 17 to recite that the lighting end of the smokable rod is open to expose smokable material such that the smokable material is positioned for lighting at the lighting end of the smokable rod. Similar language appears in new independent claim 33.

It is respectfully submitted that the '109 Strubel reference fails to teach or suggest such a smokable rod. Instead, the '109 Strubel patent is directed to simulated smoking articles comprising a capsule at the lighting end thereof, the capsule being designed to create a reaction mixture that is exothermic. The exothermic reaction heats ambient air, which then passes through porous substrate 36. However, it is clear that the Strubel patent does not intend for porous substrate 36 to be lit (i.e., to combust). In contrast, independent claims 1 and 17 have been amended to clarify that the smokable material is positioned for lighting at the lighting end of the smokable rod. The '109 Strubel patent does not teach such an arrangement. Instead, the porous substrate 36 relied upon by the Examiner is positioned at a considerable distance from the lighting end of the rod and, thus, the material therein is not positioned for lighting at the lighting end of the rod. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1, 3-17, and 19-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,060,667 to Strubel. The Examiner relies upon the '667 Strubel patent in a similar manner as the '109 Strubel patent, noting that the reference discloses a rod including a flavor source material 26, which can include tobacco and an aerosol producer. Applicants respectfully traverse this rejection.

The '667 Strubel patent suffers from the same deficiencies as the other cited Strubel patent. In particular, the '667 Strubel patent is directed to a smoking article including a combustible fuel element at the lighting end thereof. The flavor source material 26 relied upon by the Examiner is not positioned at the lighting end of the smokable rod such that the smokable material can be lit. Instead, it is clear that the smoking article of the '667 patent is designed to

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avoid combustion of flavor source material 26. Only combustible fuel element 20 is intended to be burned. In fact, a hollow heat transfer tube 22 is positioned between the combustible fuel element and flavor source material 26, which would prevent combustion of the material in the annular flavor source material section of the rod. Since all independent claims of record recite that the smokable material is positioned for lighting at the lighting end of the smokable rod, it follows that one of ordinary skill in the art would not view the invention as obvious over the cited patent. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/christopher m. humphrey/

Christopher M. Humphrey
Registration No. 43,683

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

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